



## City of Huntington Beach Planning Department **STUDY SESSION REPORT**

**TO:** Planning Commission  
**FROM:** Scott Hess, AICP, Director of Planning  
**BY:** Mary Beth Broeren, Planning Manager *MBB*  
**DATE:** October 14, 2008

**SUBJECT: ZONING TEXT AMENDMENT NO. 08-005 (AFFORDABLE HOUSING ORDINANCE REVISIONS)**

**LOCATION:** Citywide

---

### **PROJECT REQUEST AND SPECIAL CONSIDERATIONS**

The City of Huntington Beach is proposing to modify its affordable housing requirements, based on input and direction from the City Council Ad Hoc Committee on Affordable Housing. Zoning Text Amendment No. 08-005 would implement the following significant changes (a complete legislative draft is attached; the section references below may be found in the attachment):

- Change the required income level of affordable rental units from very low or low income to only low income (Section B.2);
- Change the required income level of affordable for-sale units from very low, low or median income to only moderate income (Section B.3);
- Increase the size of a project that may pay an in-lieu fee to satisfy its affordable housing obligation from nine units to 30 units (Section B.4);
- Clarify the methodology for annual fee updates (Section C.3);
- Modify the requirements for off-site rehabilitation of units (Section D.1);
- Decrease the affordability term from 60 years to 55 years for rental housing and 45 years for for-sale housing (Section E.3); and
- Establish a "Reduced Fees for Affordable Housing" section that would allow projects that exceed inclusionary requirements on-site to be eligible for reduced City fees. If this new section is approved, the City would subsequently develop and adopt the reduced fee schedule (Section G).

The City's affordable housing ordinance was adopted in 2004, codifying a decade-old policy requirement that projects with three or more units provide the equivalent of 10 percent of their units as affordable housing either on-site or off-site. The ordinance has a provision that projects with three to nine units be allowed to satisfy their affordable housing requirement via payment of an in-lieu fee. In 2007 the City of Huntington Beach adopted the affordable housing in-lieu fee; an annual adjustment was approved in 2008. In its deliberations on affordable housing issues, the City Council formed an Ad Hoc Affordable Housing Committee and directed the Committee to evaluate the possibility of increasing the size of a project that would be eligible to pay an in-lieu fee.

## **CURRENT LAND USE, ZONING AND GENERAL PLAN DESIGNATIONS**

Not applicable; the ZTA is applicable citywide, with the exception of specific plan areas that may have special requirements. In addition, projects within redevelopment project areas have a 15 percent requirement.

## **APPLICATION PROCESS AND TIMELINES**

### **DATE OF COMPLETE APPLICATION:**

Zoning Text Amendment: Not Applicable

### **MANDATORY PROCESSING DATE(S):**

Not Applicable

## **CEQA ANALYSIS/REVIEW**

The proposed ZTA No. 08-05 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act.

## **COMMENTS FROM CITY DEPARTMENTS AND OTHER PUBLIC AGENCIES**

The proposed amendments to the City's existing ordinance were prepared with input and assistance from the Economic Development Department and the City's consultant, Keyser Marston Associates. The amendment does not affect the operations or services of other city departments.

## **PUBLIC MEETINGS, COMMENTS AND CONCERNS**

Several public meetings associated with the affordable housing ordinance have been held. In 2008, the City Council Ad Hoc Committee on Affordable Housing met in April and July. At the July meeting, the Committee directed staff to prepare the revised ordinance and process the zoning text amendment.

The Committee has received input from representatives of the Building Industry Association and the Huntington Beach Chamber of Commerce, among others. Representatives from these organizations have expressed that they are supportive of the changes; however, they do not believe that the changes go far enough. For example, rather than only allowing projects with 30 or less units to pay an in-lieu fee, they prefer to have a higher cap or no cap at all. The attached legislative draft was sent to the affordable housing interested parties list on September 12, 2008.

## **PLANNING ISSUES**

The primary issues for the Planning Commission to consider when analyzing this project are:

- The Zoning Text Amendment request to amend the affordable housing requirements
- The overall conformance with the goals and policies of the General Plan, particularly the Housing Element

## **ATTACHMENTS:**

1. Legislative Draft of Proposed Affordable Housing Ordinance Changes
2. Relevant Goals, Policies and Programs from the General Plan Housing Element

## LEGISLATIVE DRAFT

### AMENDING SECTION 230.26 OF HBMC CHAPTER 230

#### 230.26 Affordable Housing (3687-12/04)

##### A. Purpose.

1. The purpose and intent of this Chapter is to implement the goals, objectives and policies of the City's Housing Element. It is intended to encourage ~~very low, low-and median~~ moderate income housing, which is integrated, compatible with and complements adjacent uses, and is located in close proximity to public and commercial services. (3687-12/04)
2. The affordable housing program is one tool the City utilizes to meet its commitment to provide housing affordable to all economic sectors, and to meet its regional fair-share requirements for construction of affordable housing. (3687-12/04)

##### B. Applicability. This section shall apply to new residential projects three (3) or more units in size. (3687-12/04)

1. A minimum of ten (10) percent of all new residential construction shall be affordable housing units. (3687-12/04)
2. Rental units included in the project shall be made available to ~~very low or low-income households based on the Orange County Median Income, adjusted for appropriate family size, as published by the United States Department of Housing and Urban Development or established as defined by the State of California, pursuant to Health and Safety Code Section 50093-50079.5,~~ or a successor statute. (3687-12/04)
3. For sale units included in the project shall be made available to ~~very low, low or median~~ moderate income level households ~~based on the Orange County Median Income, adjusted for appropriate family size, as published by the United States Department of Housing and Urban Development or established~~ defined by the State of California, pursuant to Health and Safety Code Section 50093, or a successor statute. (3687-12/04)
4. Developers of residential projects consisting of ~~nine~~ thirty or fewer units may elect to pay a fee in lieu of providing the units on-site to fulfill the requirement of the Section, unless the affordable housing requirement is outlined as part of a specific plan project. (3687-12/04)
5. Developers of residential projects may elect to provide the affordable units at an off-site location pursuant to subsection B unless otherwise outlined as part of a specific plan project. If affordable units are off-site, they must be under the full control of the applicant, or other approved party. (3687-12/04)
6. New residential projects shall include construction of an entirely new project or new units added to an existing project. For purposes of

determining the required number of affordable housing units, only new units shall be counted. (3687-12/04)

C. Fees in Lieu of Construction.

1. Fees paid to fulfill the requirements of this Section shall be placed in the City's Affordable Housing Trust Fund, the use of which is governed by subsection E. (3687-12/04)
2. The amount of the in-lieu fees shall be calculated using the fee schedule established annually by resolution of the City Council. (3687-12/04)
3. Fees shall be updated annually using the Real Estate and Construction Report published by the Real Estate Research Council of Southern California. The fee change shall be based on the percentage difference in the New Home Prices in Orange County published in the 4<sup>th</sup> quarter report for the then current year versus the immediately preceding year.
34. One hundred (100) percent of the fees required by this Section shall be paid prior to issuance of a building permit. (3687-12/04)
- 4.5. Fees paid as a result of new residential projects shall be based upon the total number and size of the new residential units which are to be constructed. (3687-12/04)

D. Off-Site Construction of Affordable Units. Except as may be required by the California Coastal Act and/or the California Government Code Section 65590 or a successor statute, developers may provide the required affordable housing off-site, at one or several sites, within the City of Huntington Beach. (3687-12/04)

1. Off-site projects may be new construction or ~~major physical~~ substantial rehabilitation, as defined by Government Code Section 33413 affordable housing production requirements, equal to more than one-third the value of the existing improvement, excluding land value, of existing non-restricted units conditioned upon being restricted to long-term affordability. "At Risk" units identified in the Housing Element or mobile homes may be used to satisfy this requirement. (3687-12/04)
2. All affordable off-site housing shall be constructed or rehabilitated prior to or concurrently with the primary project. Final approval (occupancy) of the first market rate residential unit shall be contingent upon the completion and public availability, or evidence of the applicant's reasonable progress towards attainment of completion, of the affordable units. (3687-12/04)

E. Miscellaneous Provisions.

1. The conditions of approval for any project that requires affordable units shall specify the following items: (3687-12/04)

- (a) The density bonus being provided pursuant to Section 230.14, if any; (3687-12/04)
  - (b) The number of affordable units; (3687-12/04)
  - (c) The number of units at each income level as ~~related to Orange County Median Income~~ defined by the California Health and Safety Code; and (3687-12/04)
  - (d) A list of any other incentives offered by the City. (3687-12/04)
2. An Affordable Housing Agreement outlining all aspects of the affordable housing provisions shall be executed between the applicant and the City and recorded with the Orange County Recorder's Office prior to issuance of the first building permit.  
(3687-12/04)
  3. The Agreement shall specify an affordability term of not less than ~~sixty (60)~~ fifty-five (55) years—for rental housing or forty-five (45) years for ownership housing. (3687-12/04)
  4. In a project requiring an in-lieu fee, the applicant shall execute and record an Agreement, subject to approval by the Planning Director, to pay an Affordable Housing In-Lieu Fee. (3687-12/04)
  5. All affordable on-site units in a project shall be constructed concurrently with or prior to the construction of the primary project units unless otherwise approved through a phasing plan. Final approval (occupancy) of the first market rate residential unit shall be contingent upon the completion and public availability, or evidence of the applicant's reasonable progress towards attainment of completion, of the affordable units. (3687-12/04)
  6. All affordable units shall be reasonably dispersed throughout the project unless otherwise designed through a master plan, shall contain on average the same number of bedrooms as the market rate units in the project, and shall be comparable with the market rate units in terms of exterior appearance, materials and finished quality. (3687-12/04)
  7. Affordable Housing Trust Funds shall be used for projects which have a minimum of fifty (50) percent of the dwelling units affordable to very low- and low-income households, with at least twenty (20) percent of the units available to very low-income households. Concurrent with establishing the annual fee schedule pursuant to subsection C, the City Council shall by resolution set forth the permitted uses of Affordable Housing Trust Funds. All units that obtain Affordable Housing Trust Funds shall maintain the affordability of the units for a minimum of ~~sixty (60)~~ fifty-five (55) years. The funds may, at the discretion of the City Council, be used for pre-development costs, land or air rights acquisition, rehabilitation, land write downs, administrative costs, gap financing, or to lower the interest rate of construction loans or permanent financing. (3687-12/04)

8. New affordable units shall be occupied in the following manner: (3687-12/04)
- (a) If residential rental units are being demolished and the existing tenant(s) meets the eligibility requirements, he/she shall be given the right of first refusal to occupy the affordable unit(s); or (3687-12/04)
  - (b) If there are no qualified tenants, or if the qualified tenant(s) chooses not to exercise the right of first refusal, or if no demolition of residential rental units occurs, then qualified households or buyers will be selected. (3687-12/04)

F. Price of Affordable Units. Affordable units shall be sold or rented at prices affordable to very low, low or median income households pursuant to terms of the Affordable Housing Agreement. Affordable housing cost shall be calculated in accordance with Health and Safety Code Section 50052.5 standards for ownership units and Health and Safety Code Section 50053 standards for rental units. (3687-12/04)

G. Reduced Fees for Affordable Housing. Projects that exceed inclusionary requirements on-site will be eligible for reduced City fees, pursuant to an Affordable Housing Fee Reduction Ordinance, upon adoption by the City Council.

## **ADEQUATE HOUSING SITES**

### **GOAL 2**

#### **Provide Adequate Housing Sites to Accommodate Regional Housing Needs**

### **POLICIES**

**Policy 2.1:** Maintain an up-to-date inventory of potential sites available for future development, and provide to the development community. Within Redevelopment Project Areas, provide assistance in land assembly in support of affordable housing.

**Policy 2.2:** Facilitate the development of mixed-use projects in appropriate commercial areas, including stand-alone residential development (horizontal mixed-use) and housing above ground floor commercial uses (vertical mixed-use). Establish mixed use zoning regulations.

**Policy 2.3:** Encourage and facilitate the provision of housing affordable to lower income households within the Beach/Edinger Corridor Specific Plan. Incorporate policy language and development standards within the Plan in support of affordable housing.

**Policy 2.4:** Utilize surplus school and park sites for residential use where appropriate and consistent with the City's General Plan.

**Policy 2.5:** Take advantage of existing infrastructure and public improvements to provide additional affordable housing by allowing second units in single-family zoning districts.



## **DEVELOPMENT OF AFFORDABLE HOUSING**

### **GOAL 3**

#### **Assist in Development of Affordable Housing**

**Policy 3.1:** Encourage the production of housing that meets all economic segments of the community, including lower, moderate, and upper income households, to maintain a balanced community.

**Policy 3.2:** Provide financial and/or regulatory incentives to facilitate the development of affordable housing.

**Policy 3.3:** Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to provide greater access to affordable housing funds.

**Policy 3.4:** Utilize inclusionary housing as a tool to integrate affordable units within market rate developments.

**Policy 3.5:** Establish a workforce homebuyer assistance program to assist persons who work in Huntington Beach to purchase homes in the community.

**Policy 3.6:** Encourage use of sustainable and green building design in new and existing housing.

**Policy 3.7:** Encourage the inclusion of space for child care in new housing developments, including affordable housing developments.

### **REMOVE CONSTRAINTS**

#### **GOAL 4**

##### **Remove Governmental Constraints**

**Policy 4.1:** Offer financial and/or regulatory incentives, including density bonuses, where feasible to offset or reduce the costs of developing affordable housing.

**Policy 4.2:** Periodically review regulations, ordinances, departmental processing procedures, and residential fees related to rehabilitation and construction to assess their impact on housing costs, and revise as appropriate.

### **EQUAL HOUSING**

#### **GOAL 5**

##### **Provide Equal Housing Opportunity**

**Policy 5.1:** Continue to enforce fair housing laws prohibiting arbitrary discrimination in the building, financing, sales or rental of housing on the basis of race, religion, family status, national origin, physical disability or other factors.

**Policy 5.2:** Continue to financially support the provision of fair housing services and tenant/landlord mediation to City residents.

**Policy 5.3:** Support continued efforts to implement the Orange County Continuum of Care program for the homeless.

**Policy 5.4:** Continue to coordinate with local social service providers and notify them of available City funding to address the needs of the homeless population.

**Policy 5.5:** Support low income, single-parents in attaining the life skills necessary to achieve economic independence.



\$300,000 for a single-family home. Such high housing costs place homeownership out of reach for a large segment of the community's workforce.

The City has established an objective to extend homeownership opportunities to its workforce unable to afford market rate housing. Because the level of subsidy to assist moderate income households is cost prohibitive, the City proposes establishing a homeownership assistance program targeting its workforce earning up to 140% AMI. The program would be funded using Housing Development Fund and Inclusionary Housing in-lieu fee revenues, subject to approval by the City Council, with the assistance cap proposed to be set at \$100,000 per unit.

**2008-2014 Objective:** Adopt Workforce Housing Program Guidelines in 2008, and assist five households on an annual basis.

**14. Inclusionary Housing Ordinance:** Zoning Ordinance Section 230.26 requires new residential projects with three or more units to provide at least 10 percent of the total units for low and median income households at an affordable housing cost for a 60 year period. Rental units are required to be made available to very low to low income households, while owner units are to be available to low to median income households. Affordable units are permitted to be provided at an off-site location, and may be new construction, substantial rehabilitation, preservation of assisted rental housing at-risk of conversion or mobile homes. The City allows payment of an in-lieu housing fee by right for projects with 3-9 units. In October 2007, the City Council adopted an affordable housing in-lieu fee ranging from \$9,430 - \$16,500 per unit, depending on project size. Fees are updated annually, beginning in January 2008, and are placed into a City Housing Trust Fund. The City has formed an Ad Hoc Housing Committee comprised of three Councilmembers and other stakeholders to evaluate the option of extending payment of the in-lieu housing fee to all projects.

As a means of fulfilling the inclusionary housing requirements under Redevelopment Law, residential and mixed use developments within Redevelopment Projects Areas are subject to a 15 percent inclusionary requirement.

The City's inclusionary ordinance provides incentives for compliance by offering density bonuses and additional regulatory incentives for provision of 10 percent low or median income units, or 15 percent within Redevelopment Project Areas. To provide flexibility, the ordinance now provides the option for payment of an in-lieu fee for projects with fewer than 10 units, as well as providing options for provision of off-site units through new construction or substantial rehabilitation, or preservation of at-risk units or mobile homes.

**2008-2014 Objective:** Continue to utilize the Inclusionary Housing Ordinance as a tool to integrate affordable housing within market rate developments, or alternatively, to generate fees in support of affordable housing in off-site locations. Implement the Affordable Housing Ad Hoc Committee's recommendation regarding use of in-lieu fees.

## **REMOVAL OF GOVERNMENTAL CONSTRAINTS**

**17. Affordable Housing Density Bonus:** Zoning Code Section 230.14 sets forth the City's new density bonus incentives consistent with the most recent changes to State law. In summary, applicants of residential projects of five or more units may apply for a density bonus and additional incentive(s) if the project provides for one of the following:

- 10% of the total units for lower income households; or
- 5% of the total units for very low income households; or
- A senior citizen housing development or mobilehome park that limits residency based on age requirements for housing for older persons; or
- 10% of the total dwelling units in a condominium for moderate income households.

The amount of density bonus varies according to the amount by which the percentage of affordable housing units exceeds the established minimum percentage, but generally ranges from 20-35% above the specified General Plan density. In addition to the density bonus, eligible projects may receive 1-3 additional development incentives, depending on the proportion of affordable units and level of income targeting. The City offers the following development incentives in conjunction with the density bonus:

- A reduction in site development standards or architectural design requirements.
- At the request of the developer, the City will permit a reduced parking ratio (inclusive of handicapped and guest parking) of 1 space for 0-1 bedroom units, 2 spaces for 2-3 bedroom units, and 2½ spaces for four or more bedrooms.
- Approval of mixed-use zoning in conjunction with the housing project if nonresidential land uses would reduce the cost of individual units in the housing project, and the nonresidential land uses would be compatible with the project and adjoining development.
- Other regulatory incentives or concessions proposed by the applicant or the City that would result in identifiable cost reductions.

**2008-2014 Objective:** Continue to implement the Affordable Housing Density Bonus as a means of enhancing the economic feasibility of affordable housing development.

**18. Development Fee Assistance:** The City collects various fees from development to cover the costs of processing permits and providing services and facilities. While almost all these fees are assessed on a pro rate share system, they often contribute to the cost of housing and constrain the development of lower priced units. The reduction of City fees can lower residential construction costs, and, ultimately, sales and rental prices.

The Huntington Beach Redevelopment Agency currently offers fee reimbursements as part of its overall package of development assistance for affordable housing developments. As a means of clarifying this program and providing greater certainty to developers on the level of financial incentive, the City will adopt an Affordable Housing

Fee Reduction Ordinance which delineates a reduced fee schedule for affordable projects. Residential projects providing a greater percentage of affordable units than required under the City's inclusionary ordinance (15% within Redevelopment Project Areas, 10% outside Project Areas) will be eligible for reduced City fees. In support of the ordinance, the City will conduct a fee study to determine which fees will be reduced and by how much; at a minimum, the following fees will be evaluated for reduction: Building Permit fee, Plan Review fee, Traffic Impact fee, and Parks/Recreation fee. The fee study will also evaluate providing discounted fees on market rate units within projects providing greater than 50 percent affordable units.

AB 641 now allows developers of affordable housing projects with a minimum of 49 percent very low and low income units to defer payment of development fees until issuance of a certificate of occupancy. As part of the Affordable Housing Fee Reduction Ordinance, the City will incorporate in fee deferrals consistent with AB 641.

**2008-2014 Objective:** Conduct a fee study and adopt an Affordable Housing Fee Reduction Ordinance by the end of 2009 as an incentive for projects to provide increased percentages of affordable units. Incorporate provisions for development fee deferrals consistent with AB 641.

**19. Residential Processing Procedures:** The evaluation and review process required by City procedures contributes to the cost of housing. One way to reduce housing costs is to reduce the time for processing permits. While administrative approvals in Huntington Beach compare favorably with other Orange County jurisdictions, processing times for discretionary approvals fall in the upper end of the range of the cities surveyed.

Recognizing that the City's requirement for Conditional Use Permit (CUP) approval before the Planning Commission for multi-family projects with 10 or more units may serve as a constraint to the provision of housing, the City is committed to increasing the unit threshold for a CUP in multi-family zoning districts. As Huntington Beach is a mostly built out city with little vacant residential land available, typical multi-family projects are smaller infill developments. By raising the unit number threshold, the CUP requirement for most multi-family projects would be eliminated.

**2008-2014 Objective:** Review the typical project size of multi-family development projects already zoned for residential use to determine an appropriate size threshold to permit multi-family uses by right, and undertake amendments to the Zoning Code to eliminate the CUP requirement for projects below this threshold.

**20. Zoning Ordinance Revision:** As part of the Governmental Constraints analysis for the Housing Element update, the following revision to the Huntington Beach Zoning Code was identified as appropriate to better facilitate the provision of a variety of housing types and housing to address the needs of extremely low income households: